

# Guernsey legal and regulatory update

An overview of Guernsey legislative and regulatory developments  
23 October 2021 – 28 February 2022

## 1 Regulatory Laws – status

The Revision of Laws project has reached its conclusion with Guernsey's new regulatory, supervisory and enforcement legislation now in force.

We have published a suite of legal updates on the subject ranging from a general overview to more notable industry specific changes. Visit our Revision of Laws Hub ([here](#)).

## 2 Regulatory Laws – ancillary vehicles

The new Protection of Investors (Bailiwick of Guernsey) Law, 2020 makes provision for 'ancillary vehicles', ie vehicles that are closely related to a fund structure or controlled investment. However proposals to introduce an automatic statutory exemption for such vehicles have been put on hold with the existing discretionary exemption regime to continue to apply, albeit under the new Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020.

## 3 Bailiwick mind and management - consultation

The Guernsey Financial Services Commission (the **Commission**) has issued a consultation paper on 'Bailiwick Mind and Management' in relation to the investment and fiduciary industry sectors.

The proposal is to include new guidance in each of the Licensees (Conduct of Business) Rules and Guidance, 2021 and the Fiduciary Rules and Guidance, 2021 to clarify that maintenance of local mind and management is a relevant factor in the Commission's assessment of the *prudent conduct of business* of a licensee - one of the minimum criterion for licensing. The proposal is in line with the Commission's current practice and relates both to new licence applications and the ongoing retention of licences issued under those particular regulatory laws.

The consultation ([here](#)) closes on **21 March 2022**.

## 4 Professional indemnity insurance – consultation

One of the ways the Commission fulfils its statutory function to protect the public against financial loss from persons carrying on financial business is by imposing the requirement that certain financial services businesses maintain professional indemnity insurance (**PII**).

As noted above, one of the minimum criteria for licensing is that the business is conducted in a prudent manner. A licensee will not be regarded as conducting its business in a prudent manner unless it maintains an adequate level of insurance cover.

Significant changes in the PII market over recent years has had a negative impact on local licensees, for example obtaining PII cover has become more difficult, particularly at the level required by the relevant rules and premiums have increased significantly.

This consultation contains the key findings from the questionnaires issued by the Commission in late 2020/early 2021 to fiduciary, investment and insurance intermediary licensees regarding their PII arrangements and makes proposals for changes to the minimum regulatory PII requirements in the relevant rules, in order to ensure that those requirements remain fit for purpose and consistent with the minimum licensing criterion to conduct business in a prudent manner.

The consultation ([here](#)) closed on **14 February 2022**.

## 5 Economic substance – partnerships

Following the extension of Guernsey's economic substance framework to certain partnerships carrying on a 'relevant activity', the Director of Revenue Service (the **Director**) has published related guidance ([here](#)).

Essentially any partnership resident for tax purposes in Guernsey carrying on a relevant activity for which it receives gross income is required to comply with the Income Tax (Substance Requirements) (Implementation) Regulations, 2021 (the **Substance Regulations**) ([here](#)).

The Substance Regulations have also amended the Income Tax (Guernsey) Law, 1975 with effect from 30 June 2021 making it a legal requirement for partnerships to register with the Director by **14 July** following the end of the first relevant calendar year using Form 715 ([here](#)). Penalties of up to £10,000 (or £20,000 if fraudulent) will be imposed for failure to register with the Director.

Partnerships required to register with the Director need to submit a partnership return annually (the deadline for which is aligned to that for a company) unless informed to the contrary by the Director. Again penalties will be imposed for late/failing to file.

## 6 Investment statistics – Quarter 3 2021

The investment statistics for **September** 2021 ([here](#)) show that the total net asset value of Guernsey funds increased during the previous quarter by £17.4 billion (6.4%) to £290.0 billion, broken down as follows:

- Guernsey domiciled open-ended funds increased by £2.2 billion (4.4%) to £52.2 billion (representing an increase of £4.2 billion (8.8%) in the past year)
- Guernsey closed-ended sector increased by £15.2 billion (6.8%) to £237.8 billion (representing an increase of £49.6 billion (26.4%) in the past year)
- Guernsey Green Funds held a total net asset value of £4.2 billion at the end of the quarter.

## 7 TISE – news

The International Stock Exchange (**TISE**) reported new records for 2021 in relation to the number of listings with 1,111 new securities listed, representing a 33.7% increase on the 831 securities listed during 2020 and surpassing its previous record of 865 set in 2018. The total number of listings on TISE at the end of 2021 was 3,669, a rise of 16% year on year.

A key development at TISE during 2021 saw the introduction of the Qualified Investor Bond Market (**QIBM**), a dedicated exchange offering for the listing of bond marketed solely to international 'qualified investors', such as institutional investors, professional investors and other investors experienced and knowledgeable in investing in bonds. There were a total of 2,937 new issuances listed across QIBM, of which 1,071 were entirely new classes and 1,326 were further issues to existing listings. Securitisation listings more than doubled from the previous year and TISE further cemented its position as the leading European venue for listing high yield bonds, with 151 newly listed taking the total number of high yield bonds listed on TISE to 386 at the end of the year.

2021 also saw the launch of TISE Sustainable, Europe's most comprehensive sustainable market segment with more than £8 billion of new listings on TISE supporting environmental, social and sustainable initiatives. Notably the world-first humanitarian catastrophe bond has been listed on TISE Sustainable and QIBM.

Read TISE full news articles ([here](#)).

## 8 Data protection – update

The deadline for local businesses that handle personal data to register or renew their existing registration with the Office of Data Protection (**ODPA**) is **28 February 2022**. Alternatively registration may be done via a

Levy Collection Agent (essentially certain corporate service providers that can bulk register the businesses they administer).

Registration includes payment of an annual fee of £2,000 for businesses with 50 or more FTE staff; and £50 for all other organisations (noting that charities and non-profit organisations simply need to register).

In other news, latest breach statistics reveal that a total of 177 breaches were reported during 2021, a slight reduction on the number reported in the previous year (180).

More than half of the incidents reported (15) over November and December 2021 were as a result of personal data being sent to the wrong person (nine of which were sent by post) – a recurring theme highlighting the role that human error plays in data breaches. Cyber incidents also continue to be reported, where incidents have effected personal data. Further information is available ([here](#)).

## Contacts

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**Alana Gillies Ridout**  
Partner | Advocate  
Mourant Ozannes (Guernsey) LLP  
+44 1481 731 513  
[allana.gilliesridout@mourant.com](mailto:allana.gilliesridout@mourant.com)



**Darren Bacon**  
Partner | Advocate  
Mourant Ozannes (Guernsey) LLP  
+44 1481 731 503  
[darren.bacon@mourant.com](mailto:darren.bacon@mourant.com)



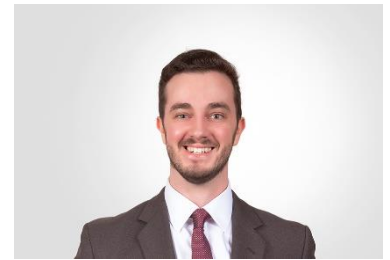
**Frances Watson**  
Partner | Advocate  
Mourant Ozannes (Guernsey) LLP  
+44 1481 739 331  
[frances.watson@mourant.com](mailto:frances.watson@mourant.com)



**Gary Hall**  
Senior Associate | Solicitor (England & Wales) non-practising  
Mourant Ozannes (Guernsey) LLP  
+44 20 7796 7615  
[gary.hall@mourant.com](mailto:gary.hall@mourant.com)



**Pui Yee Lai**  
Senior Associate | Solicitor (BVI) (England & Wales) non-practising  
Mourant Ozannes (Guernsey) LLP  
+44 1481 731 446  
[puiyee.lai@mourant.com](mailto:puiyee.lai@mourant.com)



**Alasdair McKenzie**  
Associate | Solicitor (England & Wales) non-practising  
Mourant Ozannes (Guernsey) LLP  
+44 1481 731 506  
[alasdair.mckenzie@mourant.com](mailto:alasdair.mckenzie@mourant.com)

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